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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-997)

Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers/exporters of non-oriented electrical steel (NOES) from the People's Republic of China (PRC). The Department also determines critical circumstances exist for imports of the subject merchandise from the PRC. The period of investigation is January 1, 2012, through December 31, 2012.

EFFECTIVE DATE: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Thomas Schauer, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1779 and (202) 482-0410, respectively.

Background

The petitioner in this investigation is AK Steel Corporation (Petitioner). This investigation covers 30 government programs. The respondents in this investigation are the Government of the PRC (the GOC) and Baoshan Iron & Steel Co., Ltd. (Baoshan). For this final determination, we continue to rely on facts available, with adverse inferences, for the GOC and for Baoshan, the only mandatory company-respondent, because they did not act to the best of

their abilities and did not respond to our requests for information. Further, we continue to draw an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* rate for Baoshan.¹

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2012, through December 31, 2012.

Case History

The events that have occurred since the Department published the *Preliminary Determination* on March 25, 2014,² are discussed in the Issues and Decision Memorandum.³ The Issues Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

¹ See sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act).

² See *Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 79 FR 16293 (March 25, 2014) (*Preliminary Determination*).

³ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from the People's Republic of China" dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

Scope of the Investigation

The merchandise subject to this investigation consists of NOES, which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Critical Circumstances

On February 25, 2014, Petitioner alleged that critical circumstances exist with respect to imports of NOES from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), we issued an affirmative preliminary critical circumstances determination not later than the date of the preliminary determination.⁴

We received no comments on our preliminary critical circumstances determination. Thus, in accordance with section 705(a)(2) of the Act, we determine critical circumstances exist with respect to Baoshan and all other producers/exporters.

Use of Facts Otherwise Available, Including Adverse Inferences

As stated above, for purposes of this final determination, we relied on facts available and applied an adverse inference (AFA) in accordance with sections 776(a) and (b) of the Act, with regard to each program under investigation. A full discussion of our decision to rely on AFA is presented under the section “Use of Facts Otherwise Available and Adverse Inferences” in the Issues and Decision Memorandum.

⁴ *See, e.g., Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a countervailing duty rate for the individually investigated producer/exporter of the subject merchandise, Baoshan. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rate calculated for the investigated company is based entirely on adverse facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we used the adverse facts available rate assigned for Baoshan as the all-others rate. This method is consistent with the Department's past practice.⁵

We determine the countervailable subsidy rates to be:

| Company | Net Subsidy Rate |
|--------------------------------|-------------------------|
| Baoshan Iron & Steel Co., Ltd. | 158.88 percent |
| All Others | 158.88 percent |

As a result of our affirmative preliminary critical circumstances determination, pursuant to section 703(e)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after December 25, 2013, the date 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register*.

⁵ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina*, 66 FR 37007, 37008 (July 16, 2001); see also *Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India*, 68 FR 68356 (December 8, 2003).

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after July 23, 2014, but to continue the suspension of liquidation of all entries from December 25, 2013, through July 22, 2014.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 6, 2014
Date

APPENDIX I

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

APPENDIX II

List of Comments in the Issues and Decision Memorandum

- I.** Summary
- II.** Background
- III.** Scope of the Investigation
- IV.** Use of Facts Otherwise Available and Adverse Inferences
- V.** Recommendation

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